

GREENBLUM & BERNSTEIN, P.L.C.
Patent and Trademark Causes
1941 Roland Clarke Place
Reston, VA 20191
(703) 716-1191

Attorney Docket No. P18888

In re application of : Marco CAERAN

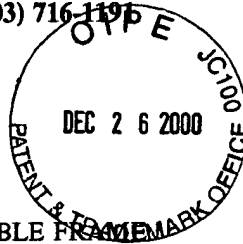
Appln. No. : 09/537,176

Filed : March 29, 2000

For : SPORTS BOOT WITH FLEXIBLE FRAME

Group Art Unit 3728

Examiner Jila MOHANDESI



ASSISTANT COMMISSIONER FOR PATENTS
 Washington, D.C. 20231

Sir:

Transmitted herewith is a response to the Restriction Requirement, dated December 12, 2000.

- ☐ Small Entity Status of this application under 37 CFR 1.9 and 1.27 has been established by a verified statement previously filed.
- ☐ A verified statement to establish small entity status under 37 CFR 1.9 and 1.27 is enclosed.
- ☐ A Request for Extension of Time.
- ☒ No additional fee is required.

The fee has been calculated as shown below:

Claims After Amendment	No. Claims Previously Paid For	Present Extra	Small Entity		Other Than A Small Entity	
			Rate	Fee	Rate	Fee
Total Claims: 20	20*	0	x 9=		x 18	\$0
Indep. Claims: 3	3**	0	x 40=		x 80=	\$0
Multiple Dependent Claims Presented			+135		+270	\$0
			=		=	
Extension Fees For ___ Months						\$0
Total:					Total:	\$0


*If less than 20, write 20

**If less than 3, write 3

☐ Please charge my Deposit Account No. 19-0089 in the amount of \$_____.☐ A Check in the amount of \$_____ to cover the _____ fee is included.

☒ The Commissioner is hereby authorized to charge payment of the following fees associated with this communication or to credit any overpayment to Deposit Account No. 19-0089:

☒ Any additional filing fees required under 37 CFR 1.16.☒ Any patent application processing fees under 37 CFR 1.17.


 James L. Rowland
 Reg. No. 32,674

PATENT APPLICATION
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Marco CAERAN)	
Appln. No.	:	09/537,176)	Group Art Unit 3728
Filed	:	March 29, 2000)	Examiner Jila Mohandesi
For	:	SPORTS BOOT WITH FLEXIBLE FRAME)	



RESPONSE TO RESTRICTION REQUIREMENT, WITH TRAVERSE

Assistant Commissioner for Patents
 Washington, D.C. 20231

Sir:

ELECTION

In response to the Examiner's restriction requirement dated December 12, 2000, a one month shortened statutory period for response set therein extending until January 12, 2001, Applicant elects, with traverse, the invention identified by the Examiner as "Species II, directed to a sports boot with flexible frame as shown in Figures 6-7." Claims 1-14 and 16-18 are believed to be "readable" on the elected invention.

TRAVERSE

Applicant respectfully traverses the Examiner's restriction requirement.

Although the Examiner's Office action appears to accurately identify two distinct inventions, Applicant kindly requests that both of the inventions be examined in the instant

application, pursuant to the guidelines set forth in MPEP §803. That is, the Examiner is respectfully requested to reconsider her requirement and find that there would not be a "serious burden" on the Office in examining claims directed to the non-elected invention, viz., claims 15, 19, and 20, which would appear to be withdrawn from consideration if the restriction requirement were to be maintained.

That is, in MPEP Chapter 800, the Office sets forth its policy by which Examiners are guided in requiring restriction under 35 USC 121. In Section 803 it is stated that "[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions."

Applicant kindly requests, in spite of the apparent accuracy of the Examiner's restriction analysis, that she reconsider and examine the aforementioned claims which would stand withdrawn from consideration.

In this regard, it would appear that no additional searching would be required in examining these claims, since there would not appear to be separate classes or subclasses that relate to the elected invention and not to the non-elected invention.

Further, Applicant submits that to the extent that the additional subject matter appearing in the claims directed to the non-elected invention would require additional "examination", Applicant requests that the Examiner find that such additional examination would not constitute a serious burden on her, particularly in view of the relationship between the elected and non-elected inventions.

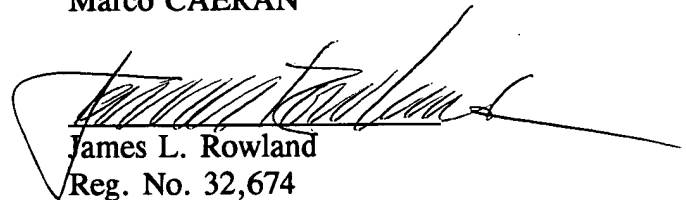
In summary, therefore, Applicant kindly requests that the restriction requirement be reconsidered and withdrawn, in view of a lack of a serious burden, as recognized in MPEP 803 as being a prerequisite to a proper restriction requirement.

No fee is believed to be due at this time. However, the Commissioner is authorized to charge any fee required for acceptance of this response as timely and complete to Deposit Account No. 19-0089.

Further, although no extension of time is believed to be necessary at this time, if it were to be found that an extension of time were necessary to render this response timely and/or complete, Applicant requests an extension of time under 37 CFR 1.136(a) in the necessary increments of month(s) to render this response timely and/or complete and the Commissioner is authorized to charge any necessary extension of time fee under 37 CFR 1.17 to Deposit Account No. 19-0089.

Any comments or questions concerning this application can be directed to Applicant's undersigned attorney at the telephone number given below.

Respectfully submitted,
Marco CAERAN



James L. Rowland
Reg. No. 32,674

December 26, 2000
GREENBLUM & BERNSTEIN, P.L.C.
1941 Roland Clarke Place
Reston, VA 20191
(703) 716-1191